IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.197 OF 2006

The Commissioner of Central Excise .. Petitioner.

V/s.

M/s.Preetam Enterprises .. Respondent.

Mr.K.R. Chaudhari with Mrs.S.V. Bharucha i/by Mr.H.P. Chaturvedi for the appellant.

Mr.M.H. Patil for the respondent.

CORAM : F.I.REBELLO AND
J.P. DEVADHAR, JJ.

DATED : 20TH JULY, 2007.

P.C. :

1. The Commissioner of Central Excise, Pune has filed this appeal under section 35G of the Central Excise Act,1944 stating that from the order of the CESTAT dated 7/10/2005 the following questions of law arise:-

1. Whether the principal manufacturer who sent the input for further working to the job worker is required to bring back the waste and scrap arising out of such working of discharge the duty on such waste and scrap ?

2. Whether the CESTAT was justified in law in holding that the principal manufacturer is not liable to pay the duty on the scrap generated at the job workers end as he being the manufacturer of such scrap even though the principal manufacturer have availed the CENVAT credit on the input ?

2. The learned counsel for the assessee brought to our notice that similar appeal filed by the revenue being Central Excise Appeal No.59 of 2006 in the case of Commissioner of Central Excise V/s. M/s.Rocket Engineering Corporation Ltd. has been dismissed on 28/6/2006. In that case, it is held that no liability can be fastened upon the principal manufacturer after 31/3/2000 in view of the amended Rules 57AC of the CENVAT credit rules. In the present case, it is not in dispute that the liability pertains to the period after 31st March, 2000. In this view of the matter, since the issue is already decided against the revenue, the present appeal is also dismissed.

(F.I.REBELLO, J.)

(J.P. DEVADHAR, J.)